IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 629 OF 2004

Shri Shrirang Anant Gohad. ... Appellant.
Versus.
Shri Sham Anant Gohad & others. ... Respondents.

Shri V.G.Mujumdar for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 13th January, 2005.

P.C.:

1. Heard Shri Mujumdar for the Appellant. The Courts below have recorded concurrent findings of fact that the suit property was self acquired property of the deceased father of the Appellant. It is not in dispute that the father of the Appellant was a Medical Practitioner having substantial practice and he was a tax payer. The property was acquired in the year 1961. There is no evidence on record to show that prior to 1961 any income was received by the father of the Appellant from the ancestral land from which the suit property could have been acquired. After considering the evidence on record both the Courts below have recorded a clear finding of fact that the Appellant has failed to establish that the suit property is an ancestral property. There is no perversity in the said finding.

2. The Courts below have also found that the father had executed a Will in favour of the brother of the

Appellant. The finding regarding proof of will is again based on evidence on record. No interference is called for in the Second Appeal under section 100 of the Code of Civil Procedure, 1908.

3. The Appeal is dismissed with no order as to costs.

Judge.